

**HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY**

-
Writ Appeal No. 673 of 2007

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Between:

C.V. Rao

... Appellant

And

Government of Andhra Pradesh,
Rep. by its Secretary, Revenue Department,
Hyderabad & others

... Respondents

:: J U D G M E N T ::

Counsel for the appellant : Shri P.C. Yadav

August 30, 2007

Per G.S. SINGHVI, CJ

This is an appeal for setting aside order dated 03.07.2007 passed by the learned Single Judge in Writ Petition No.9834 of 1999, whereby he rejected the challenge of the appellant's mother Smt.C. Subbayamma to notification dated 13.11.1996 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') for acquisition of property bearing Nos. 18-1-634, 18-1-635 and 18-1-636 situated at Mosque Road, Tirupathi.

The solitary ground on which the petitioner challenged notification dated 13.11.1996 was that her property was sought to be acquired beyond the requirement of 60 feet road specified in the proposal submitted for acquisition of the land. In the affidavit filed by

Shri C.V. Rao, General Power of Attorney Holder of the writ petitioner (the appellant is none else than Shri C.V. Rao himself), it was averred that in the Zonal Development Plan of 1981, the existing 40 feet road (mosque road) was proposed to be widened to 50 feet, but no step was taken in that direction till 1996. According to Shri Rao, the petitioner's property was not included in gazette notification dated 6.7.1996 issued for acquisition of land for widening of the road, but in the fresh proposal, which was published in the form of notification dated 13.11.1996 issued under Section 4 of the Act, 100 feet of the petitioner's property was proposed to be acquired. Shri Rao then averred that even though the petitioner lodged objections on 30.12.1996, the same were not considered by the respondents and notices under Sections 9 (3) and 10 of the Act were issued.

The learned Single Judge rejected the petitioner's plea by recording the following observations:

“ 5. The main contention of learned counsel for petitioners, Mr. M.M. Firdos, is that in the notification issued under Section 4(1) of the Act, it is clearly stated that the land is required for the purpose of widening of the road at 60' from New Municipal Junction to K.T. Road and contrary to the said notification, intentionally respondents are widening the road to an extent of 100' at the place where petitioners houses are located and thus depriving petitioners of their property, which is violative of Article 300-A of the Constitution of India.

6. No doubt, in the notification issued under Section 4(1) of the Act, the purpose is mentioned as widening of the road at 60' from New Municipal Junction to K.T. Road. If that alone is taken into consideration this writ petition has to be allowed as contended by learned counsel for the petitioners. But in the said notification the extent of the land that is required was categorically mentioned at Item Nos.10 to 13 as 3,548 square feet. So, the District Collector, Chittoor, who issued the notification clearly knows that though the widening of the road is restricted to 60' at other places, as there is a junction near the houses of petitioners, which requires 100', specifically mentioned in the notification

about the extents that are to be acquired. Hence, the contention of learned counsel for petitioners, Mr. M.M. Firdos, that the said widening of 100' road near the houses of petitioners is contrary to the notification issued under Section 4(1) of the Act, cannot be accepted."

We have heard Shri P.C. Yadav and are in complete agreement with the learned Single Judge that acquisition of land for 100 feet road for junction near the houses of the petitioners cannot be termed as illegal only on the ground that at other places the width of the road is 60 feet.

It is neither the pleaded case of the appellant nor his counsel could show that his house is not situated near the junction and that the width of the road at the junction would be more than at other places.

We are further of the view that the writ petition filed by the petitioner in March 1999 for questioning notification dated 13.11.1996 ought to have been dismissed on the ground of delay. The unexplained delay of more than two years should be treated as fatal in such cases - **Municipal Corpn. of Greater Bombay v. Industrial Development & Investment Co. (P) Ltd.**^[1] and **Star Wire (India) Ltd. v. State of Haryana**^[2].

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, W.A.M.P.No.1347 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

August 30, 2007

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[\[1\]](#) (1996) 11 SCC 501

[\[2\]](#) (1996) 11 SCC 698